



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDC FF

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to recover the filing fee for this application pursuant to section 72.

The hearing was conducted by conference call. The landlord did not attend this hearing, although I waited until 11:20 a.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 11:00 a.m. The tenant attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The tenant testified that on August 9, 2018, he sent a copy of the Application for Dispute Resolution and Notice of Hearing to the landlord by registered mail. A registered mail tracking number was provided in support of service. The tenant testified that the registered mail package was sent to an address provided to him by the landlord.

Based on the above evidence, I am satisfied that the landlord was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the landlord.

### Issues

Is the tenant entitled to a compensation for loss?

Is the tenant entitled to recover the filing fee for this application from the landlord?

### Background and Evidence

On November 14, 2017 the parties entered into a tenancy agreement for the tenant to rent a single room in an apartment. The apartment was to be shared with another tenant. The tenancy was to begin December 10, 2017 with a monthly rent of \$700.00. The tenant paid two month's in rent in advance and a security deposit of \$350.00 for a total of \$1750.00 on November 14, 2017. Before the tenancy began, on November 21, 2017 the tenant e-mailed the landlord to cancel the tenancy. The landlord subsequently returned \$500.00 to the tenant on November 22, 2017.

The tenant is claiming return of the balance of the amount paid of \$1250.00. The tenant provided a registered mail receipt and a letter dated January 8, 2018 as proof of service of providing a forwarding address to the landlord.

### Analysis

*Subsection 45(1) of the Act sets out that:*

*A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that*

*(a) is not earlier than one month after the date after the landlord receives the notice, and*

*(b) is before the day in the month...that rent is payable under the tenancy agreement.*

The tenant provided a notice to the landlord on November 21, 2017 to cancel a tenancy that was set to begin December 10, 2018. Although the tenant had not yet taken possession of the rental unit, a tenancy agreement had been entered into and as such the tenant was required to provide proper notice to end the tenancy as per section 45 of the Act. The tenant did not provide sufficient notice to end the tenancy therefore the tenant could have been responsible for any of the landlord's potential loss of rent as a result of cancelling the lease. However, the landlord did not participate in this hearing or present any evidence on whether or not he suffered any loss or on what steps may have been taken to mitigate any potential loss such as securing a new tenant.

Accordingly, I find the tenant is entitled to return of the balance of the amount paid for advance rent plus a security deposit. The tenant is awarded \$1250.00.

As the tenant was successful in this application, I find that the tenant is entitled to recover the \$100.00 filing fee paid for this application from the landlord for a total monetary award of \$1350.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the tenant a Monetary Order in the amount of \$1350.00. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 11, 2018

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Residential Tenancy Branch